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TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION

Docket Number (Optional)

PC27589A

In re Application of: SCHNUTE et al.

Application No.: 10/649,301

Filed: August 27, 2003

For: HETEROARYL-ETHANOLAMINE DERIVATIVES AS ANTIVIRAL AGENTS

The owner, Pharmacia & Upjohn, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/649,208, filed on August 27, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent, granted on the pending reference application, expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 39,313

Signature

Date

Karl Neiderl
Typed or printed name

858/622-8060
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit from the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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s/ *Bonnie Acosta*
Bonnie Acosta

*AP
EPA*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:
Mark E. SCHNUTE et al.

Serial No.: 10/649,301

Filed: August 27, 2003

Confirmation No.: 5396

For: Heteroaryl-ethanolamine Derivatives
as Antiviral Agents

Group Art Unit: 1625

Examiner: Evelyn Mei Huang

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Notice of Appeal

Sir:

Applicant(s) hereby appeal(s) to the Board of Appeals from the decision dated March 31, 2005, of the Examiner.

The item(s) checked below are appropriate:

1. A Petition for extension of time to respond to the final rejection was filed on [Date] extending the period for response to [Date].
2. A Petition for extension of time to further extend the period for response to February 2, 2004, is enclosed together with a fee of \$110.00.
3. The Appeal Fee of \$320.00.
 is to be charged to Deposit Account No. 500329.
4. A check for \$[Fee] to cover the above fees is enclosed.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 500329.

Respectfully submitted,

Karl Neidert

Karl Neidert
Attorney For Applicants
Registration No. 39,313

07/06/2005 TBESHAW1 00000019 500329 10649301

01 FC:1401 500.00 DA

Date: June 30, 2005

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